



***Town of Tyngsborough  
Planning Board***  
25 Bryants Lane,  
Tyngsborough, Massachusetts 01879-1003  
Office: (978) 649-2300 ext. 115

MINUTES  
April 15, 2010  
**APPROVED**

Attachments:

1. Meeting Agenda
2. Agreement to Extend Presumptive "Reasonable Period of Time" for Planning Board Action – Tyngsboro Wireless, LLC: Wilson Way Cell Tower
3. Planning Board Subdivision Rules & Regulations Proposed Revisions – April 2010
4. Planning Board Fee Schedule Proposed Revisions – April 2010
5. Zoning By-Law Planning Board Proposed Revisions – April 2010

Members Present: Steve Nocco, Chairman  
Tom Delmore, Vice Chairman  
Steve O'Neill  
Caryn DeCarteret  
Bill Gramer, Associate Member  
Jesse Johnson, P.E.: David E. Ross Associates  
Pamela Berman, Administrative Assistant

Members Absent: Jim Miller

**7:00pm -** Meeting opened by Chairman Nocco

**7:02pm - Wilson Way Telecommunications Tower Special Permit  
(Continued from March 18, 2010)**

Walter Eriksen submitted Tyngsboro Wireless, LLC's response to Isotrope Wireless' report concerning the proposed Wilson Way Telecommunications Tower. In doing so, Mr. Eriksen also requested a continuance due to scheduling problems that exist between his wireless engineer and the Planning Board's engineer, David Maxson. Town Counsel, Charles Zaroulis was present to speak on the Federal law concerning the decision "shot clock" that dictates the reasonable period of time for the Planning Board to take action on a cell tower application. Atty. Zaroulis went on to explain that an agreement was reached between the Town and Tyngsboro Wireless, LLC to extend the "shot clock" until July 31, 2010. S. Nocco indicated that the Board would only continue this hearing one more time. T. Delmore stated his strong opposition to continuing the hearing for another time since it's been delayed beyond what he believes to be a

reasonable time already. S. O'Neill asked Atty. Zaroulis if a vote was taken tonight and it was denied, what would happen. Atty. Zaroulis cautioned the Board against voting before all of the evidence is heard and deliberations are held. He went on to say that the applicant could take their case to Federal Court where the current Town's public deliberation record would be reviewed. Since not all of the expert evidence has been deliberated in an open meeting, it is his opinion that the Town would be on the short end of the Court's decision. S. Nocco said that the next meeting on this proposal will be the last chance to present the evidence. T. Delmore added that he believes that there are more than enough facts available now for the Board to make an informed decision. S. Nocco proposed that the next hearing on this application be held on May 20, 2010 at 7pm. Resident Dan Desrosiers of 6 Wilson Way spoke out against the cell tower saying that there exists a cell tower in Groton about a ½ mile away from the proposed site. S. Nocco reiterated that all evidence and resident concerns will be heard at the meeting on May 20, 2010. Atty. Zaroulis suggested that the Board vote to accept the "shot clock" agreement for the record. He also added that the agreement be stamped by the Town Clerk and four copies be sent to him.

**S. O'Neill:** Motion to accept and execute the Agreement to Extend Presumptive "Reasonable Period of Time" for Planning Board Action concerning the proposed Telecommunications Cell Tower Special Permit for Wilson Way.

**T. Delmore:** 2<sup>nd</sup> the motion

**In Favor: 4 Abstain: 1 Absent: 1**

**Passes: 4-1-1**

**S. O'Neill:** Motion to continue the hearing for the Wilson Way Telecommunications Tower Special Permit to May 20, 2010 at 7pm in the Town Hall Community Room.

**T. Delmore:** 2<sup>nd</sup> the motion

**In Favor: 4 Abstain: 1 Absent: 1**

**Passes: 4-1-1**

## **Discussion**

Per request of the Planning Board, Engineer Jesse Johnson reviewed the Planning Board Subdivision Rules and Regulations. His review yielded several sections that could be updated to reflect current design standards, procedures and fees. These include modernizing the design standards, updating the street acceptance procedures, and revising the fee schedule. The Board discussed all of the proposed changes and voted to accept these changes and publish them immediately. The Board indicated that the new fee schedule should be an addendum to the Tyngsborough Planning Board Rules and Regulations for Special Permits.

**S. O'Neill:** Motion to accept and publish the proposed revisions to the Planning Board Subdivision Rules and Regulations and the Planning Board's Fee Schedule.

**T. Delmore:** 2<sup>nd</sup> the motion

**In Favor: 5 Absent: 1**

**Passes: 5-1**

Further discussion was held concerning the Zoning By-Laws and how to facilitate the changes that J. Johnson proposed after his review which was requested by the Planning Board. The Board requested that Town Counsel be consulted to verify the procedure for making any changes to the Zoning By-Law.

The Board also requested that Pam research the minutes from hearings concerning Scott Connell's proposed repairs to streets he was responsible for under the Beaver Run and Deer Ridge developments.

### **Administrative**

The minutes from March 18, 2010 could not be approved as the attending members were not present at tonight's meeting.

### **8:30pm**

**C. DeCarteret:** Motion to adjourn

**S. O'Neill:** 2<sup>nd</sup> the motion

**In Favor: 5 Absent: 1**

**Passes: 5-1**

Minutes respectfully submitted by  
Pamela Berman  
Planning Board Administrative Assistant